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DOC #:  
DATE FILED: 11-3-11

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

BAYER HEALTHCARE LLC,

Plaintiff,

v.

CIPLA LTD., VERITAS PHARMA PTE. LTD. d/b/a OTC PET MEDS, RONIN VENTURES PTE. LTD. d/b/a TRUSTED PET MEDS, OKPET.COM, ARCHIPELAGO SUPPLIERS PTY LTD d/b/a FREEDOM-PHARMACY.COM and USAPHARMACYPILLS.COM, HEALTHY CHOICE PHARMACY.COM INC. d/b/a THE PHARMACY EXPRESS, SAVA MEDICARE LTD., and ABC COMPANIES 1-100,

Defendants.

11 CIV. 6347 (PKC)

ECF CASE

**PRELIMINARY INJUNCTION ORDER**

WHEREAS, plaintiff Bayer HealthCare LLC (“Bayer”) filed a complaint in this action on September 12, 2011 against, *inter alia*, defendants VERITAS PHARMA PTE. LTD. d/b/a OTC PET MEDS, RONIN VENTURES PTE. LTD. d/b/a TRUSTED PET MEDS, and OKPET.COM (collectively, the “Website Defendants”), alleging, *inter alia*, that the Website Defendants were unlawfully selling DA DOUBLE ADVANTAGE flea and tick control products for dogs that counterfeit and infringe Bayer’s federally-registered ADVANTAGE trademark, were unlawfully selling gray market flea and tick control products made by foreign affiliates of Bayer, and were falsely advertising *inter*

*alia* that DA DOUBLE ADVANTAGE is a generic version of Bayer products, is equivalent to Bayer products, and has been approved for sale in the United States;

WHEREAS, on September 13, 2011, Bayer applied for an *ex parte* order for alternative service of process;

WHEREAS, on September 13, 2011, the Court issued an Order granting Bayer leave to serve the Website Defendants by alternative means;

WHEREAS, on September 14, 2011, Bayer effectuated service of the summons, complaint, notice of motion for preliminary injunction, and its accompanying brief and declarations on the Website Defendants pursuant to the Court's Order;

WHEREAS, the Website Defendants' opposition, if any, to Bayer's motion for a preliminary injunction was due by Monday, October 3, 2011;

WHEREAS, the Website Defendants have not filed any opposition to Bayer's motion for a preliminary injunction and have not answered or otherwise responded to the Complaint;

NOW, THEREFORE, IT IS HEREBY ORDERED, pursuant to Rule 65 of the Federal Rules of Civil Procedure, that:

- (a) the Website Defendants, and all those acting in concert or participation with them, are PRELIMINARILY ENJOINED AND RESTRAINED, pending final disposition of this action, from distributing, selling, offering for sale, advertising, promoting or displaying in the United States (including in any way to United States consumers), or being involved in

the distribution, sale, offer for sale, advertisement, promotion, or display in the United States, of DA DOUBLE ADVANTAGE; and

- (b) Defendants Veritas Pharma Pte. Ltd. d/b/a OTC Pet Meds and Ronin Ventures Pte. Ltd. d/b/a Trusted Pet Meds, and all those acting in concert or participation with them, are PRELIMINARILY ENJOINED AND RESTRAINED, pending final disposition of this action, from distributing, selling, offering for sale, advertising, promoting or displaying in the United States (including in any way to United States consumers), or being involved in the distribution, sale, offer for sale, advertisement, promotion, or display in the United States, of any pet medicine products made by foreign affiliates of Bayer that are not intended for sale in the United States, including but not limited to ADVANTIX;

IT IS FURTHER ORDERED that the Website Defendants shall recall all DA DOUBLE ADVANTAGE they have previously shipped to U.S. consumers and shall issue a corrective notice warning consumers that DA DOUBLE ADVANTAGE is not a Bayer product, is not the generic version of any Bayer product, is not equivalent to any Bayer product, has not been approved for sale in the United States, violates EPA pesticide regulations, and should not be used on cats;

IT IS FURTHER ORDERED that the Website Defendants shall file with the Court and serve on counsel for Bayer within thirty (30) days after entry of this Order a

sworn written statement pursuant to 15 U.S.C. § 1116(a) setting forth in detail the manner and form in which Defendants have complied with this Order;

IT IS FURTHER ORDERED that a bond in the amount of \$5,000 shall be posted by Bayer with the Clerk of the Court by the close of business on December 2, 2011.

SO ORDERED this 3<sup>rd</sup> day of November, 2011, in New York, New York.

  
P. Kevin Castel, U.S.D.J.